

me to lose sight of a very important consideration; that in the election of an officer by the large mass of the people, there is no means of fixing the responsibility of the incumbent upon anybody. It is divided among the whole mass of voters; whereas in the appointive system the governor himself is held responsible. The court will, therefore, always be more carefully selected from men suited to the place.

Besides, our government is not a pure democracy. It is not even so far a democracy that the people have a right to elect. It is a representative democracy, it is true; but it has conservative elements in it as well. One of these conservative elements is and should be, that the judiciary should be as far removed from the people as compatible. What I mean is this; that there should be no judge placed in such a position or condition that his supporters or friends can claim that he should yield to them a favor which he would not grant to a stranger.

It is absolutely certain, since judges are but men like all the rest of us, that if there be a highly influential individual in the county or the district, who has zealously supported the individual as a judge, it is natural that that judge should have a leaning towards him and his interests, whereas a judge ought not to know anybody. It would often happen in the election of judges by the people that the most popular man was by far the least qualified for the place. In fact, it is well known that some of the very best men, the men best suited for such a place as judge of the court, would perhaps obtain the fewest possible votes. Instead of pushing himself, and endeavoring to secure votes, probably the most suitable man would be a man who would shrink from being dragged before the public and made a candidate for their suffrages.

It is for these reasons, briefly stated, that I shall advocate the appointive system. I have no objection in the world to exercising every right in voting which I think would conduce to the public good. But as it has well been suggested the office of judge is not a representative office. He ought to stand aloof, far above any communication or political affinity with anybody in his district. These are my reasons for supporting the appointive system, and I shall do so with a great deal of pleasure.

The question being taken, the result was—yeas 51, nays 19—as follows:

Yeas—Messrs. Goldsborough, President; Abbott, Annan, Audoun, Billingsley, Blackiston, Carter, Crawford, Cunningham, Dail, Davis, of Charles, Davis, of Washington, Dellinger, Dent, Duvall, Ecker, Etelen Gal-loway, Harwood, Hudson, Hopkins, Jones, of Somerset, Keefe, Kennard, King, Lee, Marbury, Markey, Mayhugh, McComas, Mitchell, Morgan, Murray, Negley, Nyman, Parran, Peter, Purnell, Ridgely, Robinette, Sands, Schley, Schlosser, Smith, of Carroll, Smith,

of Dorchester, Smith, of Worcester, Swope, Thomas, Turner, Wickard, Wooden—51.

Nays—Messrs. Berry, of Baltimore county, Bond, Brown, Chambers, Daniel, Earle, Hopper, Jones, of Cecil, Lamsdale, Miller, Mullikin, Parker, Pugh, Russell, Stirling, Stockbridge, Sykes, Thruston, Todd—19.

When the names were called,

Mr. DAVIS, of Washington said: My vote on this question indicates my individual preference. At the proper time I shall with a great deal of pleasure vote to allow Baltimore city such a system as will suit them best. But with reference to the system for the whole State, I vote "aye."

Mr. STIRLING said: I do not vote upon this question with any reference whatever to the question of the elective or appointive judiciary; but I think this word ought not to be stricken out, no matter what the convention intends to do; and I therefore vote "no."

The amendment was accordingly agreed to.

Mr. THRUSTON. I move to amend this section by inserting after the word "election," the words "or appointment."

Mr. THOMAS. What is the object of that amendment, I would ask the gentleman?

Mr. THRUSTON. I think the object is very apparent. If we adopt an elective system of judiciary, then in case of vacancies there must be appointments made by the governor for the rest of the term so vacated, or until an election can be held. And the object of my amendment is to provide that the same qualifications shall be possessed by the persons who are appointed to these offices, that are possessed by those who are elected to these offices.

Mr. THOMAS. If that be the object of the amendment, there is a section in the present constitution, which I will submit at the proper time, and which will provide for the very same thing which the gentleman desires to provide for. It is the section in relation to vacancies occurring in consequence of death, resignation, or disqualification of judges. I do not think this is the proper place for this provision, and therefore I shall vote against the amendment now offered.

Mr. STIRLING. The convention has emphatically determined in favor of an elective judiciary, and we may as well make all necessary provisions as we go along. And unless you make some such amendment as that proposed by the gentleman from Alleghany (Mr. Thruston,) the governor can appoint to fill a vacancy a man who has not resided in the State one day.

Mr. THOMAS. I submit that the better way would be to provide by a separate and distinct section, in relation to vacancies caused by death, resignation, or otherwise, and not mix it up with a section which provides for the election of these officers.

Mr. STIRLING. You are fixing the qualification about residence now.